

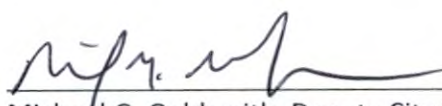


To the Honorable Council
City of Norfolk, Virginia

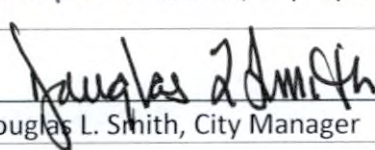
November 14, 2017

From: David S. Freeman, AICP
Director of General Services

Subject: Approval of bid for a long-term lease of five years, with the option to extend the term for up to two additional five year periods, for the property located at 210 E. Main Street, Suite 1

Reviewed: 
Michael G. Goldsmith, Deputy City Manager

Ward/Superward: 2/6

Approved: 
Douglas L. Smith, City Manager

Item Number: R-2

I. **Recommendation:** Approve Bid that was submitted on October 24, 2017

II. **Applicant:** City of Norfolk

III. **Description:**

This agenda item is an ordinance to approve a bid for a long-term lease of five years, with the option to extend the term for up to two additional five year periods, for the property located at 210 E. Main Street, Suite 1 in the Selden Arcade.

IV. **Analysis**

Approval of this bid will allow the successful bidder to lease Suite 1 of the property located in the Selden Arcade at 210 E. Main Street. The initial term of the proposed lease is five (5) years, with an option to renew for two additional five year terms. Because the term is in excess of five (5) years, the proposed lease must be bid in accordance with the requirements of §§ 15.2-2100, 15.2-2101 and 15.2-2102 of the *Code of Virginia*.

V. **Financial Impact**

Initial Term	Monthly Rent - Base	Monthly Rent - Percentage	Maximum Sum Total Rent
First year	\$1,000.00	2% of Gross Monthly Revenues	\$2,142.25
12/01/2018 – 11/30/2019	\$1,000.00	3% of Gross Monthly Revenues	\$2,163.67
12/01/2019 – 11/30/2020	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31
12/01/2020 – 11/30/2021	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31
12/01/2021 – 11/30/2022	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31

VI. Environmental

There are no known environmental issues associated with this property.

VII. Community Outreach/Notification

Public notification for this agenda item was conducted through the City's agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter and ordinance have been coordinated with the Department of General Services – Office of Real Estate, and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Exhibit A

Form and Correctness Approved:

By 
Office of the City Attorney

Contents Approved:

By 
Director, Department of General Services

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE ACCEPTING THE BID SUBMITTED BY _____ FOR A LEASE WITH A TERM OF FIVE (5) YEARS, WITH THE OPTION TO RENEW THE LEASE FOR TWO (2) ADDITIONAL PERIODS OF FIVE (5) YEARS EACH, FOR PREMISES KNOWN AS SUITE 1 IN THE SELDEN ARCADE LOCATED AT 210 E. MAIN STREET IN THE CITY OF NORFOLK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE ON BEHALF OF THE CITY OF NORFOLK.

- - -

WHEREAS, pursuant to the provisions of Section 15.2-2100, et seq., of the Code of Virginia, 1950, as amended, the City of Norfolk has invited bids for a lease with a term of five (5) years, with the option to renew the lease for two (2) additional periods of five (5) years each, for premises known as Suite 1 in the Selden Arcade located at 210 E. Main Street in the City of Norfolk, subject to certain terms and conditions; and

WHEREAS, the requirements of Sections 15.2-2101 and 15.2-2102 of the Code of Virginia, 1950, as amended, have been met and the Council has carefully considered all bids submitted; now, therefore,

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That _____ is the highest responsible bidder for a lease with a term of five (5) years, with the option to renew the lease for two (2) additional periods of five (5) years each for premises

known as Suite 1 in the Selden Arcade located at 210 E. Main Street in the City of Norfolk, and in accordance with the terms and conditions set forth in Exhibit A attached hereto, and the bid from _____ is hereby accepted.

Section 2:- That pursuant to Section 15.2-2104 of the Code of Virginia, 1950, as amended, the Council has determined that a bond in the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) shall be executed in favor of the City of Norfolk.

Section 3:- That the City Manager is authorized to correct, amend, or revise the attached Lease as he may deem necessary in order to carry out the intent of the Council and to execute the Lease, as corrected, amended, or revised in accordance herewith, for and on behalf of the City.

Section 4:- That this ordinance shall be in effect thirty (30) days after the date of its adoption.

October 4, 2017

Invitation to Bid and Notice of Public Hearing

INVITATION TO BID AND NOTICE OF PUBLIC HEARING FOR A LEASE WITH A TERM OF FIVE (5) YEARS, WITH THE OPTION TO RENEW THE LEASE FOR TWO (2) ADDITIONAL PERIODS OF FIVE (5) YEARS EACH, FOR PREMISES KNOWN AS SUITE 1 IN THE SELDEN ARCADE LOCATED AT 250 E. MAIN STREET IN THE CITY OF NORFOLK, SUBJECT TO CERTAIN TERMS AND CONDITIONS.

Pursuant to Section 15.2-2101 of the Code of Virginia, 1950, as amended, the City of Norfolk invites bids for a lease with a term of five (5) years with the option to renew the lease for two (2) periods of five (5) years each, for premises known as Suite 1 in the Selden Arcade located at 250 E. Main Street, in accordance with an ordinance entitled "An Ordinance Accepting the Bid Submitted by _____ For a Lease with a Term of Five (5) Years, with the Option to Renew the Lease for Two (2) Periods of Five (5) Years Each, for Premises Known as Suite 1 in the Selden Arcade Located at 250 E. Main Street in the City of Norfolk and Authorizing the City Manager to Execute the Lease on Behalf of the City of Norfolk," a copy of the full text of the ordinance, including all terms and conditions, being on file in the Office of the Clerk of the City of Norfolk, 10th Floor, City Hall Building.

All bids shall be subject to the terms and conditions set forth in Exhibit A to the Ordinance.

A bond will be required of the successful bidder.

Minimum acceptable bid: \$1,000.00 per month plus additional 2% of gross monthly revenue but not to exceed \$2,142.25 per month

All bids must be in writing and will be received and opened at the regular meeting of Norfolk City Council on **TUESDAY, October 24, 2017**.

Pursuant to Section 15.2-1800 of the Code of Virginia, 1950, as amended, the Norfolk City Council will hold a public hearing on **Tuesday, October 24, 2017 at 7:00 p.m.** in the Council Chambers, 11th Floor, City Hall Building, Norfolk, Virginia, at the regular meeting of the City Council, on the adoption of the above described ordinance.

The cost of this advertisement shall be reimbursed to the City of Norfolk by the person whose bid is accepted.

The City of Norfolk specifically reserves the right to reject any and all bids.

R. Breckenridge Daughtrey
City Clerk

EXHIBIT A

TERMS AND CONDITIONS OF PROPOSED LEASE

1. **TERM; ACCEPTANCE OF PREMISES; PREMISES**

1.1 Appropriation. Any obligation of the Landlord to pay any amounts hereunder to Tenant shall be subject to appropriation of funds by the City Council of the City of Norfolk.

1.2 Initial Term; Possession of Premises; Delayed Delivery. The initial term of this Lease (the "Term") shall be for a period of five (5) years plus the partial calendar month at the end of the initial Term, commencing December 14, 2017 (the "Commencement Date"), and expiring December 31, 2022 (the "Expiration Date").

1.3 Renewal Terms. Provided Tenant is not then in default under this Lease and there exists no act or omission by Tenant that with giving of notice or passage of time would constitute an event of default, Tenant shall have the option to extend the Term of this Lease for up to two (2) additional periods of five (5) years each (each, a "Renewal Term") by giving written notice to Landlord at least ninety (90) days prior to the end of the Term or then current Renewal Term. As used in this Lease, "Term" shall include the initial Term and any exercised Renewal Term and the Expiration Date shall be adjusted accordingly.

1.4 Acceptance/Condition of Premises. Landlord shall deliver the Premises to Tenant, and Tenant accepts the Premises, in broom clean "AS-IS" condition as of the Commencement Date. Within five (5) days after delivery of the Premises to Tenant, Tenant shall inspect the Premises and, except as otherwise stated in a written notice delivered to Landlord prior to the expiration of such period, Tenant shall be deemed to have accepted the Premises in its then-current condition.

1.5 Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises known as Suite 1 in Selden Arcade (the "Building") at 210 E. Main Street, Norfolk, Virginia, 23510 as shown on Exhibit A attached hereto and made a part hereof, containing 1,353 square feet, more or less (the "Premises"). The Premises and the Building may be referred to herein collectively as the "Property". The demising walls of the Premises are being reconstructed by Landlord prior to delivery of the Premises to Tenant. If the final area of the Premises is less than or greater than the square footage set forth above, the parties shall accept such space as the Premises and the Rent payable hereunder shall not be adjusted in any way.

1.6 Common Areas. Subject to Section 3.2 below, Tenant, its employees, subtenants, invitees, guests and customers shall have a non-exclusive license and right to use the Common Areas (defined below) located in and adjacent to the Building for ingress and egress.

2. RENT

2.1 Base Rent and Percentage Rent. During the initial Term of the Lease and any Renewal Terms, Tenant agrees to pay Landlord base rent ("Base Rent") and percentage rent ("Percentage Rent") in the amounts set forth in the following table and in accordance with the terms and conditions of this Lease:

<u>Period</u>	<u>Monthly Base Rent</u>	<u>Monthly Percentage Rent</u>	<u>Maximum Sum of Monthly Base Rent and Monthly Percentage Rent</u>
Rent Commencement Date – 12/31/18	\$1,000.00	2% of Gross Monthly Revenues	\$2,142.25
12/1/18 – 12/31/19	\$1,000.00	3% of Gross Monthly Revenues	\$2,163.67
12/1/19 – 12/31/20	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31
12/1/20 – 12/31/21	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31
12/1/21 – 12/31/22	\$1,000.00	4% of Gross Monthly Revenues	\$2,285.31
Option 1			
12/1/22 – 12/31/23	\$1,500.00	4% of Gross Monthly Revenues	\$2,353.86
12/1/23 – 12/31/24	\$1,500.00	4% of Gross Monthly Revenues	\$2,424.48
12/1/24 – 12/31/25	\$1,500.00	4% of Gross Monthly Revenues	\$2,497.21
12/1/25 – 12/31/26	\$1,500.00	4% of Gross Monthly Revenues	\$2,572.13
12/1/26 – 12/31/27	\$1,500.00	4% of Gross Monthly Revenues	\$2,649.29
Option 2			
12/1/27 – 12/31/28	\$2,000.00	4% of Gross Monthly Revenues	\$2,728.77
12/1/28 – 12/31/29	\$2,000.00	4% of Gross Monthly Revenues	\$2,810.63
12/1/29 – 12/31/30	\$2,000.00	4% of Gross Monthly Revenues	\$2,894.95
12/1/30 – 12/31/31	\$2,000.00	4% of Gross Monthly Revenues	\$2,891.80
12/1/31 – 12/31/32	\$2,000.00	4% of Gross Monthly Revenues	\$2,978.55

2.2 Rent When Due; Where Paid. All amounts payable by Tenant to Landlord under this Lease shall be deemed to be rent. Beginning on the earlier of (a) the date that is one

hundred twenty (120) days after the Commencement Date or (b) the date the Tenant receives all final building permits for Tenant's work (defined below) (the "Rent Commencement Date"), Base Rent shall be paid to Landlord in advance, in equal monthly installments on the first day of each calendar month during the entire remainder of the Term of this Lease, and any options exercised hereto. Percentage Rent shall be paid to Landlord along with the next monthly payment of Base Rent. Tenant shall pay the last monthly payment of Percentage Rent within ten (10) business days after the expiration or sooner termination of this Lease. Rent shall be paid without demand, deduction, set-off or counterclaim, in lawful money of the United States at the address of Landlord as set forth in this Lease or to such other person or to such other address as Landlord may designate in writing. Rent for any partial month shall be pro-rated based on a 365-day year. Rent shall be made payable to the Norfolk City Treasurer and shall be delivered to the Bureau Manager, Office of Real Estate, Department of General Services, at 232 E. Main Street, Suite 250, Norfolk, VA 23510.

2.3 Verification of Percentage Rent. For the purpose of calculating Percentage Rent, business records reflecting business gross monthly revenues will be provided to Landlord upon demand. Reports of gross receipts required to be filed with the Tax Commissioner of the Commonwealth of Virginia or the Commissioner of Revenue of the City shall be filed and copies delivered to the City at the rent payment address set forth in Section 2.2 above. In the event of a conflict between Tenant's business records and the reports of gross receipts filed for tax purposes, upon the request of the City, the Tenant and City shall meet and review the gross receipts for the Premises for the immediately preceding calendar year and the value established by the City shall be employed in calculating Percentage Rent then due in arrears, if any, for the preceding calendar.

2.4 Interest Rate on Delinquencies. If Tenant shall fail to pay any monthly installment of Base Rent or any Additional Rent or other charges; within ten (10) days of its due date, Tenant shall pay a late charge of five percent (5%) of the delinquent rents and, if not paid within thirty (30) days of its due date, such unpaid amounts shall bear interest at the rate of ten percent (10%) per annum. This provision shall not be construed to adjust, alter or modify the date when monthly installments of rent are due, nor shall the payment of any interest required by this Section be deemed to cure or excuse default by Tenant under this Lease.

2.5 Commencement Date Agreement. At Landlord's request, Tenant agrees to execute and deliver a commencement date agreement acknowledging that Tenant has accepted possession of the Premises and confirming (1) the Commencement Date, Rent Commencement Date, and Expiration Date of this Lease, (2) Tenant's confirmation that Landlord has complied with all Landlord's covenants and obligations, and (3) similar matters as reasonably requested by Landlord.

2.6 Security Deposit. Tenant has deposited with Landlord a security deposit of One Thousand Dollars and 0/100 (\$1,000.00) ("Deposit"), which shall be held by Landlord, without liability for interest thereon, as security for the full and faithful performance by Tenant of each and every term, covenant, and condition of this Lease on the part of Tenant to be observed and performed.

If any sum payable by Tenant to Landlord shall be overdue and unpaid, if Landlord shall make payments on behalf of Tenant, or if Tenant shall fail to perform any of the terms or covenants of this Lease, then Landlord, at its option, and without prejudice to any other remedy which Landlord may have on account thereof, may appropriate and apply the Deposit, or so much thereof as may be necessary, to compensate Landlord for the payment of such sums due or for any loss, damage or expense sustained from such default. In such event, Tenant, promptly upon demand, shall restore the Deposit to the full amount. In the event Tenant shall fully and faithfully comply with all of the terms, covenants and conditions of this Lease, the Deposit shall be returned in full to Tenant following the Expiration Date and the surrender of the Premises by Tenant.

In the event any bankruptcy, insolvency, reorganization, or other creditor-debtor proceedings shall be instituted by or against Tenant, the Deposit shall be deemed to be applied first to the payment of any rents and/or other charges due Landlord for all periods prior to the institution of such proceedings and the balance, if any, of such Deposit may be retained by Landlord in partial satisfaction of Landlord's damages.

3. USE; RESTRICTIONS ON USE; BUILDING REGULATIONS; QUIET ENJOYMENT; SERVICES BY LANDLORD

3.1 Use; Operating Covenant. The Premises shall be used solely for a food and beverage establishment including the sale of wine and beer (subject to all applicable laws) and for no other purpose (the "Permitted Use"). Tenant shall be responsible for obtaining approval from the City of Norfolk of a special exception for the Premises that will allow the Permitted Use. Tenant shall, at Tenant's expense, comply with all laws, rules, regulations, requirements, and ordinances enacted or imposed by any governmental unit having jurisdiction over the Building, Premises, Landlord or Tenant. Tenant agrees to open for business in the Premises no later than one hundred eighty (180) days after the Commencement Date. Thereafter, Tenant shall in good faith continuously operate throughout the Term in the entire Premises at least during normal business hours Monday through Saturday, excluding holidays.

3.2 Special Events, Programs and Performances. Landlord shall have the right to limit Tenant's access to the interior Building Common Areas during special events, programs, and performances in the Building provided such use does not interfere with or disrupt the business of the Tenant in the Premises.

3.3 Building Rules and Regulations. Tenant shall obey all rules and regulations (including restrictions) of the Building as imposed by Landlord and set forth in Exhibit B and incorporated as a part of this Lease. Landlord shall have the right to make changes or additions to such rules and regulations provided such changes or additions, except those affecting the safety and operation of the Building or Premises, do not unreasonably affect Tenant's use of the Premises. Landlord shall not be liable for failure of any tenant to obey such rules and regulations. Failure by Landlord to enforce any current or subsequent rules or regulations against any tenant of the Building shall not constitute a waiver thereof.

3.4 Quiet Enjoyment. Landlord agrees that, subject to terms, covenants and conditions of this Lease, Tenant may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises during the Term of this Lease.

3.5 Utilities. Tenant shall arrange for all utility services to the Premises to be established in Tenant's name and shall pay all such utility charges as and when the same come due. In the event that certain utilities cannot be put in Tenant's name, Tenant shall reimburse Landlord for the cost of such utilities provided to the Premises upon receipt of an invoice therefor.

3.6 Services to be Provided by Landlord; Obligations of Tenant. Landlord shall provide janitorial services to the Common Areas of the Building serving the Premises. Tenant shall be responsible for all interior space upkeep, as well as trash collection sufficient to keep the interior of the Premises free and clear of debris and the exterior of the Premises free of excess accumulation of trash. Landlord makes no representation that the electrical facilities at the Premises are sufficient to serve a kitchen. If any services or utilities to be provided by Landlord are suspended or interrupted by strikes, repairs, alterations, orders from any governmental authority (other than the Landlord) or any cause beyond Landlord's reasonable control, Landlord shall not be liable for any costs or damages incurred by Tenant, and such interruption shall not be deemed an eviction or relieve Tenant of performance of Tenant's obligations under this Lease.

3.7 Hazardous Waste. The term "Hazardous Substances" shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use or storage of which is restricted, prohibited, regulated or penalized by any law relating to pollution or protection of the environment (collectively "Environmental Laws"). Tenant agrees not to use, store, release or dispose of any Hazardous Substance on the Premises except for the use and storage of products containing Hazardous Substances that are stored, used and sold in connection with the use of the Premises permitted hereunder and provided that such storage, use and sale is in compliance with Environmental Laws. Tenant shall promptly remediate any release of Hazardous Substances at the Premises in strict accordance with all applicable Environmental Laws at Tenant's sole expense and shall immediately remedy any violation of Environmental Laws with respect to the Premises, unless such release of Hazardous Substances is caused, in whole or in part, by any act or omission to act of the Landlord. Tenant will be solely responsible for all fines, damages and costs of correction relating to the Hazardous Substances at the Premises, except where such fines, damages and/or costs of correction are caused, in whole or in part, by any act or omission to act of the Landlord. If Tenant fails to comply with the preceding sentence, Landlord may take all actions necessary to bring the Premises into compliance with this Section 3.5, and the cost thereof shall be immediately payable as Additional Rent. Landlord or its representatives may enter the Premises at any reasonable time upon reasonable prior notice for the purpose of inspecting for compliance with this Section 3.7.

4. ASSIGNMENT; SUBLET; RECAPTURE OF PREMISES; MORTGAGE BY LANDLORD; SUBORDINATION; ATTORNMENT; ESTOPPEL CERTIFICATE; NOTICE TO MORTGAGEE; SALE BY LANDLORD.

4.1 Assignment; Sublet. Tenant shall not assign or otherwise transfer, pledge, grant a security interest in or mortgage this Lease, or sublet all or any portion of the Premises except with the written permission of Landlord. No assignment, mortgaging or subletting shall relieve Tenant of its obligations under this Lease. Consent by Landlord to any assignment, transfer or pledge shall not operate as a waiver of the necessity for consent to any subsequent assignment, mortgaging or subletting and the terms of such consent shall be binding upon the assignee, mortgagee or subtenant.

4.2 Recapture of Premises. Tenant's request for Landlord's consent to the assignment of this Lease or subletting all or any part of the Premises (other than to a subtenant that is part of the Vibrant Spaces Selden Market Program) shall contain a right of first refusal to Landlord to recapture, at the then square foot rental rate or the rental Tenant proposes to obtain, whichever is lower, all or such part of the Premises which Tenant proposes to assign or sublet. Upon receipt of such offer, Landlord shall have the option, to be exercised within thirty (30) days following receipt, to accept the Tenant's offer to permit Landlord to recapture. If accepted, Tenant shall execute an assignment of the Lease or a sublease to Landlord in a form acceptable to Landlord, with Landlord having the right to sublease or subrent to others. If Landlord exercises its option to recapture and the assignment or sublease from Tenant provides for a rental rate equal to the rental rate in effect as of the date the option is exercised, Tenant shall be released of all further liability under this Lease, as of the effective date of the assignment or sublease, with respect to that portion of the Premises subject to the assignment or sublease.

4.3 Mortgage by Landlord. Landlord shall have the right to transfer, assign, pledge, grant a security interest in, mortgage or convey in whole or in part the building and any and all of its rights under this Lease, and nothing herein shall be construed as a restriction upon Landlord's doing so.

4.4 Subordination. Subject to the requirements of Section 4.5, this Lease is and shall be subject and subordinate in all respects to any and all mortgages, deeds of trust and ground leases now or hereafter placed on the Building or the land upon which the Building is situated, and to all renewals, modifications, consolidations, replacements and extensions thereof.

4.5 Attornment/Non-Disturbance. If the interest of Landlord is transferred to any person or entity by reason of foreclosure or other proceedings for enforcement of any mortgage, deed of trust or security interest or by delivery of a deed in lieu of foreclosure or other proceedings, or by reason of sale, assignment or other transfer of Landlord's interest in the Building, Tenant shall immediately and automatically attorn to such person or entity. In event of such transfer, this Lease and Tenant's rights hereunder shall continue undisturbed so long as Tenant is not in default and the successor to the Landlord shall perform all obligations of the Landlord under the Lease. Tenant shall, at Landlord's request, execute an agreement

providing for subordination of the lease within fifteen (15) days after receipt of such request. Tenant agrees that the termination of any ground lease shall not result in termination of this Lease.

4.6 Estoppel Certificate. Tenant agrees, at any time and from time to time, upon not less than ten (10) days prior written notice by Landlord, to execute, acknowledge and deliver to Landlord or any person designated by Landlord, a statement in writing (i) certifying that this Lease is unmodified and in full force and effect, or, if there have been modifications specifying the same; (ii) certifying that Tenant has accepted possession of the Premises, and that any improvements required by the terms of this Lease to be made by the Landlord have been completed to the satisfaction of the Tenant or, if not, describing such unsatisfactory improvements; (iii) stating that no rent under this Lease has been paid more than thirty (30) days in advance of its due date; (iv) stating the address to which notices to Tenant should be sent; (v) certifying that Tenant, as of the date of any such certification, has no charge, lien or claim of set-off under this Lease, or otherwise, against rents or other charges due or to become due hereunder; (vi) stating whether or not, to the best of Tenant's knowledge, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge; and (vii) containing any other statement as Landlord may reasonably request. Any such statement delivered pursuant to this Section 4.6 may be relied upon by any owner of the Building, any prospective purchaser of the Building, any mortgagee or prospective mortgagee of the Building or of Landlord's interest, or any prospective assignee of any such mortgagee.

4.7. Sale by Landlord. In the event Landlord transfers its interest in the Building, any such transfer shall be subject to the terms and conditions of this Lease. Landlord shall thereby be released from any further obligation hereunder, except for any existing obligation that Landlord may have to Tenant at the time of such transfer unless such obligation is expressly assumed in writing by the purchaser and Tenant is provided with a copy of such assumption, and Tenant agrees to look solely to the successor in interest of the Landlord for the performance of any such obligations under the Lease. However, if such new landlord is unacceptable to Tenant for any reason, then Tenant shall have the right to terminate this Lease upon thirty (30) days' prior written notice to Landlord delivered within ten (10) days following Tenant's receipt of notice identifying the prospective purchaser of the Building.

4.8 Leasehold Taxes. Tenant is responsible for payment of all leasehold taxes due and payable as a result of this Lease.

5. MAINTENANCE AND REPAIRS; RIGHT OF ENTRY; ALTERATIONS; LIENS; SIGNS.

5.1 Maintenance and Repairs by Tenant. Tenant shall maintain and keep in good condition and repair the interior, non-structural portions of the Premises (including without limitation, interior walls, plate glass, windows, doors, door closure devices, window and door frames, molding, locks and hardware, painting or other treatment of interior walls, floor coverings, glazing, plumbing, pipes, signage, lighting and electrical wiring and conduits) and shall repair or replace, as necessary, any damage or injury to the Premises or

the Building caused by Tenant, its agents, employees or invitees. At the sole cost to the Tenant, Tenant shall keep all plumbing units, pipes and connections both in the Premises and in the restrooms serving the Premises in good working condition, free from obstruction, and protected against ice and freezing. All maintenance and repairs made by Tenant shall be performed only by licensed contractors approved by Landlord. Tenant shall require its contractor to comply with Landlord's regulations and any other reasonable requirements regarding all work to be performed. Tenant shall keep the Premises and entryway neat, clean and free from dirt, rubbish, insects and pests and shall keep the sidewalks, serviceway and loading areas adjacent to the Premises free from obstruction and rubbish created by Tenant or related to Tenant's business. Tenant shall store all trash and garbage within the area designated by Landlord for trash pickup and removal, in receptacles of the size, design and color prescribed by Landlord. Tenant shall give immediate written notice to Landlord of any improperly functioning equipment serving the Premises or damage to the Premises. Landlord shall be solely responsible for any replacement or repair of building structure, including exterior walls and all plumbing, electric, and utility servicing beyond the demising walls of the Premises, except for plumbing repairs the need for which arises from Tenant's use of the Premises. Unless otherwise noted herein, all plumbing repairs and maintenance which arise from Tenant's use of the Premises shall be the financial responsibility of Tenant.

5.2 Landlord's Right to Maintain or Repair. If, within ten (10) days following occurrence, Tenant fails to repair or replace any damage to the Premises or Building for which Tenant is responsible pursuant to Section 5.1 above, Landlord may, at its option, cause all required maintenance, repairs or replacements to be made. Tenant shall promptly pay Landlord all costs incurred in connection therewith plus interest thereon at the rate of 18% per annum from the due date until paid.

5.3 Maintenance and Repairs by Landlord. Landlord shall keep the exterior of the Premises, including the foundation and the exterior walls of the Premises, in good repair, ordinary wear and tear excepted, and subject to Tenant's obligations under Section 5.1 above. Landlord shall maintain and repair the HVAC system serving the Premises. Any repairs required to be made by Landlord which are occasioned by the act or negligence of Tenant or its agents, employees or invitees, shall be paid for by Tenant upon demand to the extent not covered by insurance proceeds actually received by Landlord. If the Premises or entry requires repairs that are Landlord's responsibility under this provision, Tenant shall give immediate written notice to Landlord, and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed after delivery of such written notice.

5.4 Alterations. Tenant shall buildout the Premises in accordance with the plans and specifications attached hereto as Exhibit C (the "Tenant's Work"). Tenant's Work shall be completed in a good and workmanlike manner and shall comply at the time of completion with all applicable laws. Tenant's Work shall be completed at the sole costs and expense of the Tenant. Except for Tenant's Work, and for decorative or cosmetic changes or alterations, Tenant shall make no other changes, additions, alterations or improvements to the Premises without the prior written consent of Landlord and subject to all rules, requirements and conditions imposed by Landlord and applicable laws, rules, and regulations at the time such consent is given. Landlord shall have the right to withhold its consent and to condition its

consent upon provision by Tenant of adequate security, and Landlord may also require Tenant to restore the Premises to the condition existing prior to any such alterations upon the expiration or earlier termination of the Term of this Lease. Tenant shall have the right to install its trade fixtures at the Premises provided the installation thereof does not alter or damage the structural portions of the Building.

5.5 Alterations by Landlord. Landlord may make repairs, changes or additions to the structure, systems, facilities and equipment in the Premises where necessary to serve the Premises or the Building. Landlord may also make changes, alterations or additions to any part of the Building not forming part of the Premises and change the location of public areas of the Building.

5.6 Liens. If, because of any act or omission of Tenant or any person claiming by, through or under Tenant, any mechanic's lien or other lien shall be filed against the Premises or the Building or against other property of Landlord (whether or not such lien is valid or enforceable as such), Tenant shall, at its own expense, cause the same to be discharged of record within ninety (90) days after the date of filing thereof. If any such lien is not so discharged, Landlord may, but shall not be obligated to, pay or post security for the claim upon which such lien is based so as to have such lien released of record; and, if Landlord does so, then Tenant shall pay to Landlord, as Additional Rent, upon demand, the amount of such claim or security, plus all other costs and expenses incurred in connection therewith (including Landlord's reasonable attorneys' or consultants' fees), plus interest thereon at the rate of the lesser of eighteen percent (18%) per annum or the highest lawful rate under applicable law until paid.

5.7 Signs. Tenant may (i) install signage on the exterior entrances to the Premises, the design and placement of which will be subject to Landlord's reasonable approval and the sign criteria established by the Department of Planning and Community Development of the City of Norfolk, and provided such signs are permitted by applicable laws. Tenant shall be responsible for ensuring that such signage is and remains in compliance with all laws, rules and regulations of the City of Norfolk and for obtaining any necessary approvals associated therewith. Upon expiration or sooner termination of this Lease, Tenant shall remove all such signs and shall repair any damage caused by such removal. During the last six (6) months of the Term, and at any time Tenant is in Default, Landlord shall have the right to erect signs on the Premises indicating that the Premises are available for lease.

5.8 Display Windows. Tenant shall maintain all display windows in a neat, attractive condition.

5.9 Landlord's Right of Entry. Landlord, its agents, contractors or employees shall have the right to enter the Premises to make inspections, alterations, or repairs to the Building or the Premises and to show the Premises to prospective purchasers or tenants. Except for repair of casualty damage as provided in Section 7.1, Tenant shall not be entitled to any abatement or reduction of rent because of work performed within the Building or Premises by Landlord. Tenant shall provide Landlord with a key to the Premises, including any internal

locked areas of the Premises, and a knox box shall be located at the Premises at the sole cost and expense of Tenant.

5.10 Waiver of Landlord's Lien. Landlord waives any lien it might have upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper and other personal property of Tenant located in the Premises.

5.11 Non-Liability for Certain Conditions. Landlord and Landlord's agents and employees shall not be liable to Tenant or any other person or entity for any injury to person or damage to property caused as a result of the Premises or other portions of the Building becoming out of repair or damaged, or by defect in or failure of equipment, pipes or wiring, or broken glass, or by the backing up of drains or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Premises.

6. INSURANCE, INDEMNITY, SUBROGATION.

6.1 Insurance by Landlord. Landlord shall maintain insurance for those perils and in amounts which would be considered prudent for similar type property situated in the general area of the Building or which is required by any mortgagee or creditor of Landlord. Landlord shall have the right to self-insure with respect to any insurance obligations hereunder.

6.2 Tenant's Insurance.

6.2.1 Tenant's Liability Insurance. Tenant shall at all times during the Term hereof and at its cost and expense purchase and maintain with an insurance company, commercial general liability insurance coverage naming Landlord and its employees as additional insureds, in an adequate amount, as determined by Landlord's insurance broker or adviser, but not less than Three Million Dollars (\$3,000,000.00) combined single limit of coverage for personal injury, death and property damage. The insurance carrier shall be reasonably satisfactory to Landlord and licensed in the state in which the Premises are located. The insurance carrier shall at all times during the Term of this Lease have a policyholder's rating of not less than "A-/VII" in the most current edition of Best's Insurance Reports. The policy shall also include contractual coverage of Tenant's obligations under Section 6.4 below. Tenant shall deliver to Landlord evidence of such insurance prior to occupancy evidencing the obligation of the insurer to provide Landlord with not less than thirty (30) days' written notice prior to any reduction or cancellation of such insurance. Any insurance required of Tenant under this Lease may be furnished by Tenant under a blanket policy carried by it. Such blanket policy shall contain an endorsement that names Landlord as an additional insured, references the Premises, and guarantees a minimum limit available for the Premises equal to the insurance amounts required in this Lease. Each policy evidencing the insurance to be carried by Tenant under this Lease shall contain a clause that such policy and the coverage evidenced thereby shall be primary with respect to any policies carried by Landlord, and that any coverage carried by Landlord shall be excess insurance. A copy of the current certificate(s) of insurance for the Premises must be available to Landlord upon demand.

6.2.2 Tenant's Property Insurance. Tenant shall, at its own expense, maintain in full force and effect "Broad Causes of Loss" or "Special Causes of Loss" commercial property insurance covering all of its inventory, furnishings, fixtures and equipment in the Premises, to the extent of their insurable actual cash value. Landlord will not carry insurance on Tenant's possessions, nor on any leasehold improvements made by Tenant, and Landlord shall not be liable for Tenant's loss thereof.

6.2.3 Landlord as Additional Insured. The insurance policy or policies for the insurance required in Sections 6.2.1 and 6.2.2 above shall name Landlord, its employees, and Landlord's mortgagee, if any, as additional insureds and shall provide that they may not be canceled on less than thirty (30) days' prior written notice to Landlord. Tenant shall furnish Landlord with Evidence of Insurance evidencing all required coverage. Should Tenant fail to carry such insurance and to furnish Landlord with such evidence of such insurance after a request to do so, Landlord shall have the right to obtain such insurance and collect the cost thereof from Tenant as additional rent plus interest thereon at the rate of eighteen percent (18%) per annum or the highest lawful rate under applicable law from the due date until paid.

6.3 Insurance Rating. Tenant will not conduct or permit to be conducted any activity, or place any equipment in or about the Premises, which will, in any way, increase the rate of fire insurance or other insurance on the Building; and if any increase in the rate of fire insurance or other insurance is stated by any insurance company or by the applicable Insurance Rating Bureau to be due to activity or equipment in or about the Premises, such statement shall be conclusive evidence that the increase in such rate is due to such activity or equipment and as a result thereof, Tenant shall be liable for such increase and shall reimburse Landlord therefor.

6.4 Indemnity. Tenant will indemnify, defend, and save Landlord harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Premises, or the occupancy or use by Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, lessees or concessionaires, clients or customers, excepting only such claims arising from the negligence of Landlord, its agents, contractors or its employees, or its failure to perform its obligations under this Lease. In case Landlord shall, without negligence or material fault on its part, be made a party to any litigation commenced by or against Tenant, Tenant shall protect, defend, and hold Landlord harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by Landlord in connection with such litigation.

6.5 Waiver of Subrogation. Notwithstanding anything in this Lease to the contrary, Landlord and Tenant each hereby waive, to the extent of net proceeds collected under insurance policies actually carried or required by this Lease to be carried by the waiving party, any rights each may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, or the Building.

7. DAMAGE AND DESTRUCTION.

7.1 Damage. In the event the Building or the Premises shall be destroyed or rendered untenable either in whole or in part, by fire or other casualty, Landlord may, at its option, restore the Building or Premises to as near their previous condition as is reasonably possible, and in the meantime Tenant agrees that during any period of restoration or repair of the Premises it will continue the operation of its business within the Premises to the extent practicable and the Base Rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof; but unless Landlord, within sixty (60) days after the happening of any such casualty, shall notify Tenant of its election to so restore, this Lease shall thereupon terminate and Tenant shall vacate the Premises and be discharged from any obligation to pay rent. Such restoration by Landlord shall not include replacement of furniture, equipment or other items that are part of the Building or any improvements to the Premises in excess of those provided for in any allowance for building standard items as of the Commencement Date of this Lease. Restoration of the Premises required by Tenant beyond Landlord's obligation shall be performed by the Tenant at no cost to the Landlord. In the event of damage to the Premises or the Building by fire or other causes resulting from fault or negligence of Tenant, its agents, employees or invitees, there shall be no abatement of rent during the period of repair.

7.2 Delay Beyond Landlord's Control. Landlord shall not be penalized for any delay in commencing or completing repairs caused by adjustment or insurance claims, governmental requirements or any cause beyond Landlord's reasonable control.

8. CONDEMNATION.

8.1 Condemnation; Award; Termination. If the Building or Premises shall be taken or condemned for any public purpose, or for any reason whatsoever, to such an extent as to render either or both untenable, either Landlord or Tenant shall have the option to terminate this Lease effective as of the date of taking or condemnation in which event Tenant shall be discharged from any obligation to pay rent. If the taking or condemnation does not render the Building and the Premises untenable, this Lease shall continue in effect and Landlord shall promptly restore the portion not taken to the extent possible to the condition existing prior to the taking, but in no event shall Landlord be required to expend any amounts in excess of the net condemnation proceeds received by Landlord. If, as a result of such restoration, the area of the Premises is reduced, the rent shall be reduced proportionately. All proceeds from any taking or condemnation shall be paid to Landlord. Tenant waives all claims against such proceeds. A voluntary sale or conveyance in lieu of but under the threat of condemnation shall be considered a taking or condemnation for public purpose.

9. SURRENDER OF PREMISES.

9.1 Surrender at Expiration. Upon expiration or sooner termination of this Lease, Tenant shall immediately surrender possession of the Premises to Landlord vacant, broom clean, in good order and condition, ordinary wear and tear and damage for which Tenant is not responsible under the terms of this Lease excepted.

9.2 Removal of Property. All alterations, additions and improvements made to the Premises at the expense of Tenant or Landlord shall become a part of the Premises and shall remain upon and be surrendered with the Premises as a part thereof, except as Landlord may otherwise direct, in its sole discretion. Any unattached moveable furniture, furnishings or equipment not removed by the Tenant prior to the expiration or termination of this Lease shall become, at Landlord's option, the property of Landlord and shall be surrendered with the Premises as a part thereof. Upon expiration or other termination of this Lease, Tenant (i) shall remove only such alterations, additions and improvements (including telephone cable) as Landlord requests in writing; (ii) shall, except for these alterations, additions and improvements not required to be removed, restore the premises to the same condition existing upon delivery of possession thereto under this Lease, reasonable wear excepted; and (iii) shall surrender to Landlord, at the place then fixed for payment of rent, all keys for the Premises and shall inform Landlord of all combinations on locks, safes, and vaults, if any, in the Premises. Tenant's obligation to observe this Section 9.2 shall survive the expiration or other termination of this Lease.

10. HOLDING OVER.

10.1 Holding Over. If Tenant shall fail to vacate the Premises upon expiration or sooner termination of this Lease, Landlord may at any time reenter by any applicable legal process or otherwise in accordance with the provisions of this Lease. Any holding over shall only be with Landlord's consent and Tenant shall be a month-to-month Tenant and subject to all laws of the state in which the Building is situated and to the terms and conditions of this Lease, so far as applicable. If Tenant or any other occupant remains in possession of the Premises after the expiration of this Lease without Landlord's consent, no tenancy or interest in the Premises will result, such party shall be subject to immediate eviction and removal, and Base Rent shall be increased to then current "Maximum Sum of Monthly Base Rent and Monthly Percentage Rent" (as set forth in Section 2.2 above) multiplied by 150%. No receipt of money by Landlord from Tenant after expiration or termination of this Lease shall reinstate or extend this Lease or affect any prior notice given by Landlord to Tenant. If Tenant fails to surrender the Premises upon the expiration of this Lease, despite demand to do so by Landlord, Tenant shall, to the extent permitted under Virginia law, indemnify and hold Landlord harmless from all loss or liability, including without limitation, any claim made by any succeeding tenant founded on or resulting from such failure to surrender.

11. DEFAULT; REMEDIES.

11.1 Defaults by Tenant. The occurrence of any one or more of the following events shall be a default under and breach of this Lease by Tenant:

11.1.1 Failure to Pay Rent. Tenant shall fail to make any required payment of the Base Rent or Additional Rent or any other charges due under the Lease for a period in excess of ten (10) days following written notice of such nonpayment by Landlord to Tenant.

11.1.2 Failure to Perform. Tenant shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease

for a period of thirty (30) days after written notice thereof from Landlord, provided, however, if the term, condition, covenant or obligation to be performed by Tenant is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such failure shall not constitute a default if Tenant commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same and does so complete the required action within a reasonable time but in any case not longer than sixty (60) days.

11.1.3 Vacation; Abandonment; Failure to Occupy. Tenant shall vacate or abandon the Premises for any period, or fail to occupy the Premises or any substantial portion thereof for a period of thirty (30) days.

11.1.4 Trusteeship; Assignment; Attachment. A trustee or receiver shall be appointed to take possession of substantially all of Tenant's assets in, on or about the Premises or of Tenant's interest in this Lease (and Tenant does not regain possession within sixty (60) days after such appointment); Tenant makes a general assignment for the benefit of creditors, or substantially all of Tenant's assets in, on or about the Premises or Tenant's interest in this Lease are attached or levied under execution (and Tenant does not discharge the same within thirty (30) days thereafter).

11.1.5 Bankruptcy. A petition in bankruptcy, insolvency, or for reorganization or arrangement is filed by or against Tenant pursuant to any federal or state statute (and, with respect to any such petition filed against it, Tenant fails to secure a stay or discharge thereof within sixty (60) days after the filing of the same).

11.2 Remedies of Landlord. Upon the occurrence of any event of default set forth in Section 11.1, Landlord shall have the following rights and remedies, in addition to those provided by law, any one or more of which may be exercised without further notice to or demand upon Tenant:

11.2.1 Cure. Landlord may re-enter the Premises and cure any default of Tenant, in which event Tenant shall reimburse Landlord as Additional Rent for any costs and expenses which Landlord may incur to cure such default; and Landlord shall not be liable to Tenant for any loss or damage which Tenant may sustain by reason of Landlord's action, regardless of whether caused by Landlord's negligence or otherwise.

11.2.2 Termination; Re-let. In the event of default, after the applicable notice and cure period, Landlord shall have the right, in addition to all other rights and remedies provided by law, to re-enter the Premises peaceably or by force, with or without process of law, and to take possession thereof and to terminate this Lease. No such termination of this Lease nor recovering possession of the Premises, however, shall deprive Landlord of any action or remedy against Tenant for possession, rent (accrued or to accrue) or damages, nor constitute a waiver of any lien of Landlord on the property of Tenant and Landlord may to the extent permitted by law (but shall not be obligated to) re-let the Premises in whole or in part for the unexpired portion of the Term and Tenant shall be obligated to reimburse Landlord for all of its expenses in connection with such retaking and re-letting, including any loss of rent which might result. Landlord shall in no event be liable in any way whatsoever for failure to re-let

the Premises, or in the event that the Premises are re-let, for failure to collect the rent under such re-letting, and in no event shall Tenant be entitled to receive the excess, if any, of such net rent collected over the sums payable by Tenant to Landlord hereunder. To the extent permitted by law, Tenant waives any notice to quit or other provision of applicable law requiring notice or delay in an action to evict or dispossess Tenant, and all rights of redemption under any law in the event Tenant is evicted or dispossessed for any cause.

11.2.3 Suit. Landlord may sue for specific performance, injunctive relief or to recover actual damages suffered by Landlord (excluding however exemplary, consequential and special damages) for any loss resulting from the breach.

11.2.4 Interest on Unpaid Rent. Interest on unpaid rent shall be charged as specified in Section 2.3.

11.3 Default by Landlord and Remedies of Tenant. It shall be a default under and breach of this Lease by Landlord if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after written notice thereof from Tenant; provided, however, that if the term, condition, covenant or obligation to be performed by Landlord is of such nature that the same cannot reasonably be performed within such thirty (30) day period, such occurrence shall not constitute a default if Landlord commences such performance within said thirty (30) day period and thereafter diligently undertakes to complete the same and does so complete the required action within a reasonable time. Upon the occurrence of any such default, Tenant may sue for injunctive relief or to recover damages for any loss resulting from the breach, and Tenant shall be entitled to terminate this Lease.

11.4 Limitation of Landlord's Liability. If Landlord shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease after notice thereof and an opportunity to cure as provided in Section 11.3, and if Tenant shall, as a consequence thereof, recover a money judgment against Landlord, Tenant agrees that it shall look solely to the Landlord's right, title and interest in and to the Building for the collection of such judgment; and Tenant further agrees that no other assets of Landlord shall be subject to levy, execution or other process for the satisfaction of Tenant's judgment and that Landlord (and its employees) shall not be personally liable for any deficiency.

11.5 Non-Waiver of Defaults. The failure or delay by either party hereto to exercise or enforce at any time any of the rights or remedies or other provisions of this Lease shall not be construed to be a waiver thereof, nor affect the validity of any part of this Lease or the right of either party thereafter to exercise or enforce each and every such right or remedy or other provision. No waiver of any default and breach of the Lease shall be deemed to be a waiver of any other default and breach. The receipt by Landlord of less than the full rent due shall not be construed to be other than a payment on account of rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the rent due or to pursue any other remedies provided in this Lease. No

act or omission by Landlord or its employees or agents during the Term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such a surrender shall be valid unless in writing and signed by Landlord.

12. MISCELLANEOUS PROVISIONS.

12.1 Waiver. The failure of Landlord or Tenant to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances, shall not be considered to be a waiver or relinquishment of such performance by either party, and all covenants, agreements and options shall remain in full force and effect.

12.2 Consent Not Unreasonably Withheld. Unless otherwise specifically provided, whenever consent or approval of Landlord or Tenant is required under the terms of this Lease, such consent or approval shall not be unreasonably withheld or delayed. Tenant's sole remedy, if Landlord unreasonably withholds or delays consent or approval, shall be an action for specific performance and Landlord shall not be liable for damages. If either party withholds any consent or approval, such party shall on written request deliver to the other party a written statement giving the reasons therefor.

12.3 Attorneys' Fees. To the extent permitted under Virginia law, all costs and expenses, including attorneys' fees in a reasonable amount, incurred by Landlord or Tenant in enforcing the obligations of either under this Lease, shall be paid by the defaulting party to the prevailing party upon demand, once a default is determined to have occurred, whether by judgment or otherwise.

12.4 Designated Parties. Landlord may act in any matter provided for herein through any person who shall from time to time be designated by Landlord by notice to Tenant. Tenant may designate in writing a person to act on its behalf in any matter provided for herein and may, by written notice, change such designation. In the absence of such designation, the person or persons executing this Lease for Tenant shall be deemed to be authorized to act on behalf of Tenant in any matter provided for herein.

12.5 Successors. All covenants, terms and conditions contained in this Lease shall apply to and be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns. If there is more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several. No rights, however, shall inure to the benefit of any assignee or subtenant of Tenant unless Landlord has given its consent to the assignment or sublease in accordance with Section 4.

12.6 Relationship of Parties. Nothing contained in this Lease shall create any relationship between the Landlord and Tenant, and it is acknowledged and agreed that Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of Tenant's business, or a joint venturer or a member of a joint or common enterprise with Tenant.

12.7 Severability. If any clause or provision of this Lease is held to be illegal, invalid or unenforceable under present or future law effective during the Term of this Lease, the remainder of this Lease shall not be affected thereby. In lieu of such clause or provision held to be illegal, invalid or unenforceable there shall be added, as a part of this Lease, a clause or provision as similar in terms as possible which shall be legal, valid and enforceable.

12.8 Gender. Words of any gender used in this Lease shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

12.9 Building Name. Landlord reserves the right at any time and from time to time to change the name, number or designation by which the Building is commonly known.

12.10 Brokerage Commissions. The parties hereby acknowledge, represent and warrant that no broker has been involved in the negotiation and execution of this Lease and that no broker or person is entitled to any leasing commission or compensation as a result of the negotiation or execution of this Lease. Tenant shall be responsible for any commission or other compensation or charges claimed by or awarded to any broker or agent based on the actions of Tenant with respect to this Lease.

12.11 Tenant Authority. Tenant warrants that it has legal authority enter into this Lease and to operate and is authorized to do business in the Commonwealth of Virginia and in the City of Norfolk. Tenant also warrants that the person or persons executing this Lease on behalf of Tenant has authority to do so and fully obligate Tenant to all terms and provisions of this Lease.

12.12 Common Areas. All hallways and passageways (including the Central Corridor), stairways and elevators in the Building, entrances and exits thereto, ramps, public toilets, truck-ways, pedestrian sidewalks and ramps, landscaped areas, and other publicly-accessible areas located in or about the Building (collectively, the "Common Areas") are provided for the general non-exclusive use, in common, of Tenant, Landlord and all other tenants and occupants of the Building, their employees, guests and invitees. Such Common Areas shall at all times be subject to reasonable regulation and management by Landlord, and Tenant agrees to abide by any rules and regulations with respect thereto and to use its best efforts to cause its employees, guests and invitees to do the same. Without limitation on Landlord's general right to promulgate any such rules and regulations, Landlord reserves the right to change the area, level, location and arrangement of the facilities referred to herein; to control the amount of lighting, security and traffic control, if any; and to take such other actions as Landlord shall deem necessary or desirable with a view to the convenient use thereof by the public, all tenants, their employees, guests and invitees. Landlord also reserves the right at any time, without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor, to change the arrangement and/or location of public corridors, passageways, elevators, mechanical areas and rooms, stairways and stairs, restrooms, or other common areas of the Building.

12.13 Recording. Upon the request of either party, the other party shall join in the execution of a memorandum or so-called "short form" of this Lease for the purposes of recordation. Said memorandum or short form of this Lease shall describe the Parties, the Premises and the Term of this Lease and shall incorporate this Lease by reference. In the alternative, either party may, at its option, record this entire Lease.

12.14 Notices. All notices under this Lease shall be in writing and delivered in person, sent by prepaid registered or certified mail, or sent via reputable overnight carrier such as Federal Express to the addresses below or to such addresses as hereafter may be designated by either party in writing. Notices mailed or sent via overnight carrier shall be deemed given on the date following the date of mailing. Notices delivered in person shall be deemed given when delivered.

Landlord's Address:

**City Manager
810 Union Street
1101 City Hall Building
Norfolk, Virginia 23510**

With a copy to:

**Director, Department of General Services
232 E. Main Street, Ste. 250
Norfolk, VA 23510**

With a copy to:

**City Attorney
810 Union Street
900 City Hall Building
Norfolk, VA 23510**

Tenant's Address:

12.15 Time is of the Essence; Force Majeure. Time is of the essence with respect to all provisions of this Lease. However, whenever a period of time is prescribed for action to be taken, the party in question shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other

causes of any kind which are beyond such party's reasonable control. However, this provision shall not apply to the obligation of either party to make Rent or other monetary payments as and when due or to maintain insurance.

12.16 Entire Agreement; Captions. This Lease, including Exhibits A, B and C hereto, and any Addendums contain the entire agreement of the Parties and no prior or contemporaneous representations, promises or agreements, oral or otherwise, between the Parties not contained in this Lease shall be of any force and effect. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated except in writing executed by Landlord and Tenant or the party against whom any waiver is sought. The captions for sections of this Lease are for convenience only and shall have no effect upon the construction or interpretation of any part of this Lease.

12.17 Tenant's Right to Terminate. Tenant shall have the right to terminate this Lease by written notice to Landlord at any time prior to the Rent Commencement Date if Tenant is unable to obtain all government approvals necessary to the construction and operation of its business for the Permitted Use provided that Tenant shall in good faith diligently pursue such permits and approvals.

(signature pages to follow)

Acknowledged and accepted as of the date set forth above.

LANDLORD

CITY OF NORFOLK

By: _____
Name: Douglas L. Smith
Title: Interim City Manager

Attest:

City Clerk

Approved as to content:

Director, Department of General Services

Approved as to form and correctness:

Assistant City Attorney

TENANT

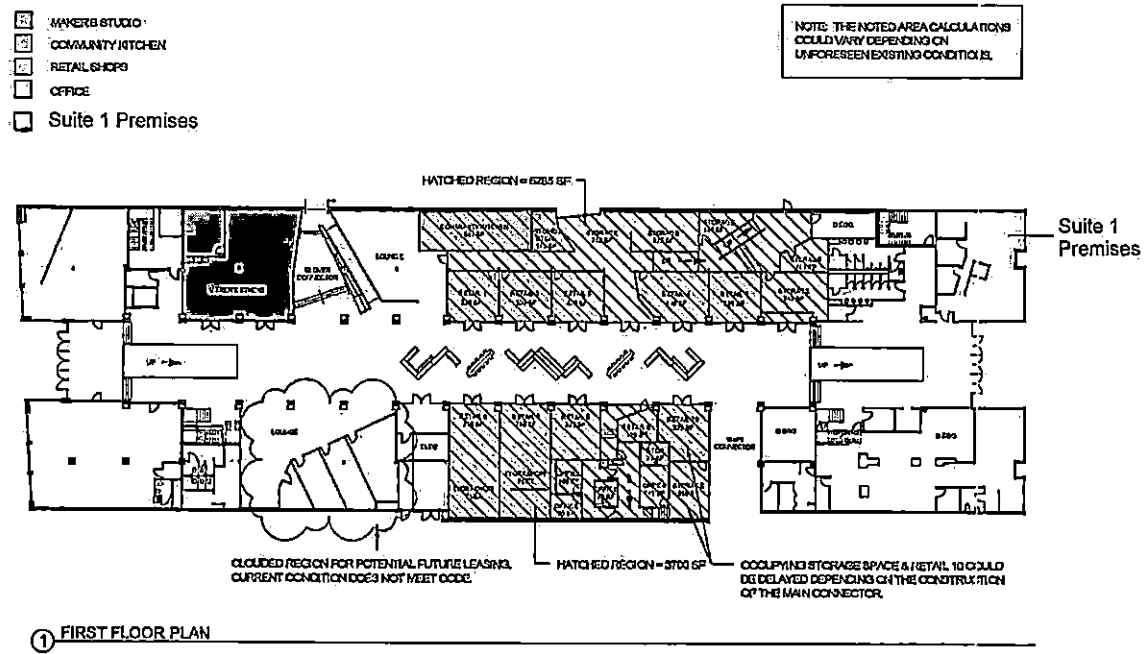
By: _____

Name: _____

Title: _____

EXHIBIT A

FLOOR PLAN SHOWING THE PREMISES



440 East Main Street
 Alexandria, Virginia 22316
 WPA
 703.522.2222

SELDEN MARKET
 FLOOR PLAN CONCEPT

04.27.17

EXHIBIT B

RULES & REGULATIONS

1. **NON-SMOKING PROPERTY:** The entire Property, including but not limited to parking lots, entranceways, etc., has been designated a "Non-Smoking" Property. Tenant shall not permit its employees, agents, customers, licensees or invitees to smoke on the Property.
2. **OBSTRUCTION OF PASSAGEWAYS:** The sidewalks, parking lots, entrances, passages, courts, elevators, vestibules, stairways, corridors, and public parts of the Property shall not be obstructed or encumbered by the Tenant or used by the Tenant for any other purpose other than ingress and egress.
3. **DISPOSAL OF TRASH:** Tenant shall not permit trash or rubbish to be stored in or about the Premises, and trash and rubbish collected each day shall be disposed of in dumpsters provided at the Building, each day.
4. **WINDOWS:** Windows in the Premises shall not be covered or obstructed by the Tenant without prior written consent of the Landlord. No bottles, parcels or other articles shall be placed on the windowsills, in the halls, or in any other part of the Building. No article shall be thrown out of the doors or windows of the Premises.
5. **PROJECTIONS FROM BUILDING:** No awnings, air conditioning units, or other fixtures shall be attached to the outside walls or windowsills of the Building by Tenant or otherwise affixed by it so as to project from the Building, without prior written consent of the Landlord.
6. **FLOOR COVERING:** The Tenant shall not lay linoleum or other similar floor covering so that the same shall come in direct contact with the floor of the Premises without the prior written consent of the Landlord. If linoleum or other similar floor covering is desired to be used, an interlining of builder's deadening felt first shall be fixed to the floor by a paste or other material that may easily be removed with water, the use of cement or other similar adhesive material being expressly prohibited.
7. **INTERFERENCE WITH OCCUPANTS OF BUILDING:** During normal business hours, the Tenant shall not make or permit to be made, any unseemly or disturbing noises and shall not interfere with other tenants or those having business with them. The Tenant will keep all mechanical apparatus in the Premises free of unreasonable vibration and noise, which may be transmitted beyond the limits of the Premises. Tenant shall not bring into the Premises or permit any item or equipment to be used in the Premises that causes electrical interference or otherwise hinders the proper operation of the telecommunications or other equipment of other tenants or occupants of the Building.
8. **LOCKS, KEYS:** Tenant shall place no additional locks or bolts of any kind on any of the doors or windows. The Tenant shall, upon the termination of Tenant's tenancy, deliver to Landlord, all keys to any space within the Building or Premises, either furnished to or otherwise procured by Tenant, and in the event of the loss of any keys furnished, Tenant shall pay Landlord the cost thereof. The Tenant, before closing and leaving the Premises, shall ensure that all its windows are closed and its entrance doors are locked.
9. **PROHIBITED ON PREMISES:** The Tenant shall not conduct or permit any other person to conduct, any auction upon the Property. Tenant shall not permit the Premises to be used for gambling, make any unusual noises in the Property, permit to be played any radio, television, recorded or wired music in such a loud manner as to disturb or annoy other tenants, or permit any unusual odors to be produced upon the Property. The Tenant shall not permit any portion of the Premises to be used for the storage, manufacture, or sale of intoxicating beverages

(except in compliance with applicable laws), illegal narcotics, or tobacco in any form. Canvassing, soliciting and peddling in the Property are prohibited, and Tenant shall cooperate to prevent the same. No vehicles of any kind shall be brought into or kept in or about the Premises, or the Property. No portion of the Premises shall be used as sleeping quarters at any time during the Term of the Lease.

10. **FIRE HAZARDS; FIRE SAFETY:** Tenant shall not use or permit to be used in the Premises any equipment or other thing, or permit any act, that would create a fire hazard. Tenant further agrees to abide by any rules, regulations or procedures that may be established by Landlord, its insurance carrier, or any governmental agency with respect to fire prevention or safety.
11. **HEAVY ITEMS:** Tenant shall not bring into the Premises or permit to be brought into the Premises any weights or heavy items that would be beyond the safe carrying capacity of a standard office building.
12. **PLUMBING, ELECTRIC AND TELEPHONE WORK:** Plumbing facilities shall not be used for any purpose other than those for which they are constructed; and no floor sweepings, rubbish, ashes, newspaper or other substances of any kind shall be thrown into them. Waste and excessive or unusual usage or amounts of electricity and water is prohibited. When electric wiring of any kind is introduced, it must be connected as directed by Landlord, and stringing or cutting of wires will not be allowed, except by prior written consent of Landlord, and shall be done by contractors approved by Landlord. The number and locations of telephones, telegraph instruments, electrical appliances, call boxes, etc. shall be subject to Landlord's reasonable approval.

Landlord reserves the right to reasonably supplement or modify these rules and regulations from time to time during the Term of the Lease upon written notice to Tenant, and Tenant agrees to abide by such supplemental or modified rules and regulations.

EXHIBIT C
TENANT'S WORK